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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 United States of America,  
10  
11 Plaintiff,  
12 v.  
13 Kyle Adam Haney,  
14 Defendant.

No. CR-21-02970-001-TUC-JCH (EJM)  
**MAGISTRATE JUDGE'S FINDINGS  
AND RECOMMENDATION UPON A  
PLEA OF GUILTY**

15 Upon Defendant's request to enter a plea of guilty pursuant to Rule 11 of the  
16 Federal Rules of Criminal Procedure, this matter was referred to the Magistrate Judge by  
17 the District Court, with the written consents of the Defendant, counsel for the Defendant,  
18 and counsel for the United States.

19 Thereafter, the matter came on for a hearing on Defendant's plea of guilty to ct. 1  
20 of the Indictment which charges 18:2252A(a)(5)(B) and (b)(2) Possession of Child  
21 Pornography in full compliance with Rule 11, Federal Rules of Criminal Procedure,  
22 before the Magistrate Judge, in open court and on the record.

23 In consideration of that hearing and the allocution made by the Defendant under  
24 oath on the record and in the presence of counsel, and the remarks of the Assistant United  
25 States Attorney,

26 (A) I FIND as follows:

- 27 (1) that Defendant is competent to plead;  
28 (2) that Defendant understands his/her right to trial;

- 1 (3) that Defendant understands what the minimum mandatory and maximum  
2 possible sentence is, including the effect of the supervised release term, and  
3 defendant understands that the sentencing guidelines apply and that the  
4 court may depart from those guidelines under some circumstances;
- 5 (4) that the plea of guilty by the Defendant has been knowingly and voluntarily  
6 made and is not the result of force or threats or of promises apart from the  
7 agreement between the parties;
- 8 (5) that Defendant understands the nature of the charge against him/her;
- 9 (6) that Defendant understands that his/her answers may later be used against  
10 him/her in a prosecution for perjury or false statement; and
- 11 (7) that there is a factual basis for the Defendant's plea;
- 12 (8) that the defendant knowingly, intelligently and voluntarily waived his/her  
13 right to appeal or collaterally attack his/her conviction and any sentence  
14 imposed if it is within the range permitted by the plea agreement;

15 and further,

16 (B) I RECOMMEND that the District Court accept the Defendant's plea of guilty to ct.  
17 1 of the Indictment which charges 18:2252A(a)(5)(B) and (b)(2) Possession of Child  
18 Pornography.

19 (C) The parties have fourteen (14) days from the date of service of this Report and  
20 Recommendation to file written objections with the District Court.

21 IT IS FURTHER ORDERED:

22 (D) Presentence Report to be prepared.

- 23 (1) Any objection(s) to the presentence report shall be filed no later than 14  
24 days after receiving the presentence report pursuant to Fed.R. Crim.P. 32  
25 (f) (1);
- 26 (2) any response to the objection(s) to the presentence report shall be filed no  
27 later than 11 days after receiving the objection(s);
- 28 (3) any sentencing memorandum shall be filed no later than 5 business days

1 prior to sentencing;

- 2 (4) Any party seeking to continue a sentencing date shall file a Motion to  
3 Continue no later than two (2) business days prior to the date of the  
4 hearing. Additionally, counsel shall telephonically notify chambers when  
5 sentencing is within two (2) business days;  
6 (5) failure to comply with this Order may result in the imposition of sanctions.

7 Dated this 6th day of October, 2022.  
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11 Eric J. Markovich  
12 United States Magistrate Judge  
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